

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

**LOWER SUSQUEHANNA
RIVERKEEPER ASSOCIATION,**)

Plaintiff,)

v.)

**REPUBLIC SERVICES OF
PENNSYLVANIA, LLC,**)

Defendant.)

Case No. 1:23-cv-00044-JPW

**PLAINTIFF’S MOTION FOR PARTIAL SUMMARY JUDGMENT
ON JURISDICTION AND LIABILITY ISSUES**

Pursuant to F.R.C.P. 56, Plaintiff moves for partial summary judgment because there are no genuine issues of material fact and Plaintiff is entitled to judgment as a matter of law against Defendant Republic Services of Pennsylvania, LLC (“Republic”) on four jurisdictional and liability issues related to Plaintiff’s Clean Water Act (“CWA”) claims in this action. First, Plaintiff meets the constitutional requirements for jurisdiction and organizational standing to sue through their members Ted Evgeniadis, Anne Kostas, Adrienne Johnson, Devin Winand, Carla Monticchio, and Shane Allison. Second, Plaintiff meets the statutory requirements for jurisdiction under the CWA because it (1) sent a pre-complaint notice of intent to sue to the proper parties and (2) waited more than 60 days before filing this action for violations that (3) have not been addressed by

state and federal agencies in judicial or administrative proceedings that have preclusive effect under Sections 1365(b)(1)(B) or 1319(g)(6)(A) of the CWA.

Third, based on Republic's admitted permit violations in the Stipulation (Doc. #24) and certified self-monitoring reports, Plaintiff is entitled to summary judgment as to Republic's liability for violating the effluent limitations for boron and osmotic pressure in its NPDES Permit No. PA0046680 449 times from October 2017 through April 2023. Fourth, based on Plaintiff's and Republic's sampling of its discharges for per- and polyfluoroalkyl substances ("PFAS"), Plaintiff is entitled to summary judgment as to Republic's liability for ten violations of Section 301(a) of the CWA, 33 U.S.C. § 1311(a), because it discharged PFAS from Outfall 001 to Kreutz Creek on ten days between July 2022 and September 2023 without a required permit under the CWA.

Pursuant to Local Rule 7.1, the undersigned certifies that he sought concurrence in this motion from Republic's counsel, who declined to concur. Plaintiff is therefore presenting those four issues to this Court for resolution.

Respectfully submitted,

/s/ Stephen G. Harvey
Stephen G. Harvey
Michael E. Gehring
E. Kelly Conway
Steve Harvey Law LLC
1880 John F. Kennedy Blvd.
Suite 1715

Philadelphia, PA 19103
(215) 438-6600
steve@steveharveylaw.com
mike@steveharveylaw.com
kelly@steveharveylaw.com

James M. Hecker (special admission)
Public Justice
1620 L Street, N.W. Suite 630
Washington, DC 20036
(202) 797-8600 ext. 225
jhecker@publicjustice.net

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I certify that on June 4, 2024, I served a copy of the foregoing document via the Court's ECF system on the following:

P. Leigh Bausinger
Antoinette M. Snodgrass
Faegre Drinker Biddle & Reath LLP
One Logan Square, Suite 2000
Philadelphia, PA 19103

/s/ Stephen G. Harvey
Stephen G. Harvey